



GREENSTEIN DELORME & LUCHS, P.C.

1800 L STREET, N.W., SUITE 900
WASHINGTON, D.C. 20036-5605
tel (202) 452-1400 fax (202) 452-1419

www.gdllaw.com

Lyle M. Blanchard, Esq.
lmb@gdllaw.com

Kate M. Olson, Esq.
kmo@gdllaw.com

November 6, 2012

Via Electronic Submission: zcsubmissions@dc.gov

Mr. Anthony J. Hood, Chairman
D.C. Zoning Commission
One Judiciary Square
441 4th Street N.W.
Second Floor
Washington, D.C. 20001

**Re: Z.C. Case No. 10-14 (Big Bear Cafe)
Map Amendment for 1700 First Street, N.W. Square 3103, Lot 800
Applicant's Post-Hearing Submission: Progress Report**

Dear Chairman Hood and Members of the Commission:

As requested by the Commission at its public meeting on October 15, 2012, the Applicant submits into the record the attached Progress Report detailing recent communication with the Lewis Party.

Should you have any questions, please have the Office of Zoning contact the undersigned.

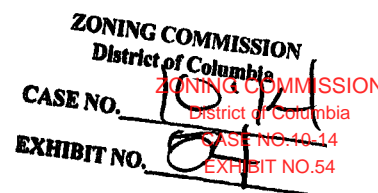
Sincerely,

Lyle M. Blanchard

Kate M. Olson

Enclosures

457017v3



CERTIFICATE OF SERVICE

I hereby certify that a copy of this letter and enclosure were sent, via electronic mail, on November 6, 2012 to the following:

Via Electronic Mail to:

Office of ANC 5C
Hugh Youngblood, ANC 5C03

Paul Goldstein, DC Office of Planning
Jamie Henson, DC Dept. of Transportation

The Lewis Party, c/o Karla M. Lewis

Kate M. Olson

Kate M. Olson, Esq.

Progress Report

11/6/2012
Big Bear Cafe
ZC Case #10-14
1700 1st Street NW

As requested by the Zoning Commission at its public meeting on October 15, 2012, I have prepared the following progress report to describe the outreach I have done over the past few weeks with Ms. Karla Lewis and members of her opposition party (the "Lewis Party") to address concerns raised during the Big Bear Café's Zoning Map Amendment Application process.

During the week of October 18, 2012, in emails with the Lewis Party and also at a meeting with Ms. Lewis on October 28, 2012, the parties discussed the previously documented concerns raised at the zoning hearing on September 17, 2012, and reviewed the efforts made by the Big Bear Café to address these concerns. A list of the work completed or being done currently by the Big Bear Café is attached. This attached list supplements the post-hearing progress report submitted into the record on September 24, 2012 (Exhibit 50).

In addition to these efforts I again extended the offer to file a covenant in the land records for the Big Bear Café property to limit the building height as an additional safeguard against expanding the Building with the proposed C-2-A classification. Such a covenant would limit both the size of the existing Building as well as any future Building on the Property, to match the height requirement of all the surrounding R-4 zoned properties. The offer to file this covenant remains contingent upon the Lewis Party withdrawing its opposition to the Zoning Map amendment before the Commission takes proposed action on the application.

With such a covenant, the Building "Structure" would remain on the same scale that currently exists for the Property, and maintain the same height restrictions as all surrounding buildings to the north and east. Regardless of the covenant, the Property "Use" would maintain the current low density, residential and commercial mixed-use that currently exists and has continuously existed for over 120 years.

During the meeting with the Lewis Group on October 28th, we found ourselves at an impasse due to the following:

- Ms. Lewis requested that I work to move a separate business, the Bloomingdale Farmers' Market, from its current location on R Street to a different location. I told Ms. Lewis that I did not own the Bloomingdale Farmers' Market, nor did I have any say in the Market's location or operation. The Market has the support of a large majority of surrounding immediate neighbors and adds a great deal of public value to our surrounding neighborhood. Not only would moving the Bloomingdale Farmers' Market not be relevant to this zoning case, it would also not be in the public interest to work to have it moved.
- Ms. Lewis reiterated her support for the Big Bear Café as a local business, but requested that I include additional operational requirements in the covenant which substantially restrict how any potential future business at the Property would be allowed to operate. These operational requirements included: what type of business could exist at the property, what type of licensing

would be allowed for the business, what type of entertainment endorsement would be allowed, what hours of operation a business could have, what restrictions would exist for outdoor space usage, and how the back yard area could be used.

- I described to Ms. Lewis that these operational requirements are already regulated by existing government agencies. DC ABRA regulates business type, business size, what entertainment endorsement is allowed, hours of operation, how outside space is used, and the type of product allowed to be sold at the business. DCRA issues business licenses and enforces licensing compliance controls. The Department of Transportation regulates outdoor public space usage (outside occupancy, type of outdoor use, and hours of operation), maintenance of the back alleyway and sidewalks, and parking allowances. And DC MPD polices all noise issues, trash controls, and general safety issues.
- Not only would Ms. Lewis's operational controls in her proposed covenant be unnecessary due to the oversight of other regulating authorities, the inflexibility of such a restrictive covenant will create substantial limitations on future neighborhood business operations without the input or consideration of the larger neighborhood.
- I expressed my concern that with too many restrictions in a covenant, problems will likely arise that would threaten any business at the Property, such as problems with property value assessments, commercial lenders requiring "cleaner" deeds of trust, potential resale issues, or other unforeseen problems that we cannot now anticipate.

I will continue to work with Ms. Lewis and the members of the Lewis Party who oppose the Big Bear Café's proposed Zoning Map amendment and I will continue to work to develop my business in a way that adds positive value to our surrounding community.

As described above, I have offered to file a covenant for the Property that limits building height to the current R-4 zone (40' height restriction) that exists for R-4 buildings. The Property "Use" will continue as a low density, residential and commercial mixed-use that currently exists and has continuously existed for over 120 years. I believe my offer of a proposed covenant best respects the interests of the neighborhood, the business and the surrounding community. The offer to file this covenant remains contingent upon the Lewis Party withdrawing its opposition to the Zoning Map amendment before the Commission takes proposed action on the application at the November 19, 2012 public meeting.

Thank you,
Stuart Davenport
Applicant and Owner, Big Bear Café

ATTACHMENT TO 11-6-12 PROGRESS REPORT

Actions to Address Community Issues

Raised at the September 17th Zoning Hearing¹

Cleanliness

- The Big Bear Café currently works with a local neighborhood garden business called Love and Carrots to increase garden maintenance and ensure garden beds are constantly weeded, watered, and tended to.
- The Big Bear Café has worked with a local landscaper to clean all sidewalks and weed/maintain all treeboxes along the 100 block of R streets (north side), and the 1700 block of 1st Street (west side) monthly throughout 2011 and 2012. We propose to continue this cleaning maintenance through the spring of 2013 and coordinate funding from local residents if there is local interest.
- We have fully reorganized the back yard area, and have reconfigured trash storage, equipment storage, crate storage, etc.. We have also obtained a building permit to enclose the back area with a fence to close off the back area and hide it from public view. This work will be ongoing and will continue in the spring of 2013 when larger permits can be obtained.
- We have updated our trash service contract to increase the number of recycling and trash pickups. We also get trash service through the weekend where our business is busiest.

Parking

- We continue to encourage pedestrian and bicycle use where possible.
- We will continue to work with DDOT to install new bike-racks when necessary to increase the availability of bicycle parking.
- We will also continue to hold public events that encourage the use of bicycles and public transit such as the Railvolution Luncheon on public transit, the Phoenix Bike bi-annual used bike sale, community meetings for the Rails to Trails organization, the Metropolitan Coffee Bike Crawl, etc.

¹ This list supplements the post-hearing progress report submitted into the record on September 24, 2012 (Exhibit 50).

Neighborhood Communication

- We have continued to work with local residents on issues raised through the zoning application process, and I will continue to reach out to all neighbors within 200 feet of the property to ensure they are informed of major changes at the Big Bear café.
- As demonstrated in neighborhood surveys, at Civic Association meetings, ANC meetings, through emails with neighbors, and meetings with members of the community, we have worked hard to reach out to the local community, to address their concerns, and invite them to be a part of what we do.

Safety

- By maintaining extended hours beyond 6pm, and maintaining the presence of “eyes on the street” due to our outdoor seating and presence of customers later in the evening, the presence of the Business at the Property itself will continue to make a positive effect on the atmosphere contributing to public safety.
- We will continue to work with member of the Karla Lewis group, and other neighbors and local police to address public safety issues and local crime.